



# Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY  
DOCKET NO. 702

IN THE MATTER  
OF  
THOMAS COLLETT

## DISPOSITION AGREEMENT

This Disposition Agreement is entered into between the State Ethics Commission and Thomas Collett pursuant to Section 5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented-to final order enforceable in Superior Court, pursuant to G.L. c. 268B, § 4(j).

On December 16, 2003, the Commission initiated, pursuant to G.L. c. 268B, § 4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Collett. The Commission has concluded its inquiry and, on March 31, 2004, found reasonable cause to believe that Collett violated G.L. c. 268A, § 23(b)(2).

The Commission and Collett now agree to the following findings of fact and conclusions of law:

### **-Findings of Fact-**

1. Collett is an elected member of the Hardwick Board of Health ("BOH").
2. Collett is a Certified Licensed Water Operator and he operates Tri-S Water Service ("Tri-S"), a private water testing company.
3. The Alliance for the Homeless ("the Alliance") is a non-profit organization. In 2002, the Alliance began renting a property in Hardwick with the intent of running a camp for children in summer 2003, (the "Camp").
4. A summer camp cannot operate in Hardwick without first obtaining a permit from the BOH.
5. A public well was located on the Camp's property. According to the Department of Environmental Protection ("DEP"), camps must submit certain water quality reports to the DEP on a monthly basis. If a camp fails to submit the reports, or if the reports indicate unacceptable levels of water contaminants, the DEP posts notices on the site and informs the local BOH, which could revoke the camp's permit. In the event that a public water system fails to meet the DEP's standards, the owner of the property must comply with various DEP testing and possibly disinfecting procedures.

6. In September 2002, Collett drove to the Camp in a town truck. Collett identified himself to the Camp's director (the "Director") as a BOH member. Collett told the Director about the public water system. Collett explained that he had contracted with the campground's prior tenants to provide them with water services. Collett presented the Director with a proposed contract for Tri-S's services with a monthly rate of \$866. The contract required Tri-S to conduct various surveys and keep certain records, in addition to performing facility inspections as needed. Collett also pointed to a water pipe that, in his view, needed to be replaced. He quoted a price of approximately \$8,000 to replace the pipe.

7. The Director gave Collett a copy of Alliance's vendor application form, which Collett filled out. By letter dated November 10, 2002, the Alliance Board of Directors notified Collett that the Alliance would not be retaining Tri-S's services.

8. At the time of Collett's solicitation, the Alliance had not yet applied to the BOH for a summer camp permit but intended to apply in the near future.

9. The Alliance applied to the BOH for the permit on March 30, 2003.

#### **-Conclusions of Law-**

10. Section 23(b)(2) prohibits a public employee from knowingly or with reason to know using or attempting to use his position to obtain for himself or others unwarranted privileges or exemptions of substantial value not properly available to similarly situated individuals.

11. As a Hardwick BOH member, Collett is a municipal employee as that term is defined in G.L. c. 268A, § 1.

12. Collett knew or had reason to know he was using or attempting to use his BOH position to influence Alliance to use the services of his private water testing company, Tri-S. This is because (1) when he made the solicitation he invoked his official position by introducing himself as a BOH member and driving to the camp in a town truck; and (2) did so to someone who was subject to his official authority. Alliance was required to obtain a permit from the BOH in order to operate their summer camp, and any non-compliance by the Camp regarding water standards would be reported to BOH, which could revoke the Camp's permit.

13. The privilege was securing for himself and/or his company business from Alliance.

14. The privilege would have been unwarranted because Collett would have obtained any such business by using the influence and power of his BOH position.

15. The privilege was of substantial value as the value of the business was more than \$50.

16. This unwarranted privilege was not otherwise properly available to similarly situated people because public officials may not use their public positions to obtain private business.

17. Therefore, by knowingly or with reason to know using his position as a BOH member in an attempt to secure for himself and/or his company an unwarranted privilege of substantial value not properly available to similarly situated individuals, Collett violated §23(b)(2).

### **-Resolution-**

In view of the foregoing violation of G.L. c. 268A by Collett, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Collett:

that Collett pay to the Commission the sum of \$1,000 as a civil penalty for violating G.L. c. 268A, §23(b)(2);

- (1) that Collett and/or Tri-S will not contract for or otherwise provide private water services to Hardwick properties while Collett is on the BOH;<sup>1</sup> and
- (2) that he waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

**DATE: April 14, 2004**

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<sup>1</sup> The fact that Collett in his private capacity received compensation from Tri-S for water inspections for property in Hardwick raises concerns under § 17 as the BOH may have a direct and substantial interest in such matters. Section 17(a) prohibits a municipal employee, other than as provided by law for the proper discharge of official duties, from requesting or receiving compensation from anyone other than the same municipality in relation to a particular matter in which that municipality is a party or has a direct and substantial interest. Section 17(c) prohibits a municipal employee from, otherwise than in the proper discharge of his official duties, acting as agent for anyone other than the same municipality in connection with a particular matter in which the municipality is a party or has a direct and substantial interest.

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Where Collett has agreed not to have Tri-S provide private water services to Hardwick properties in the future while he is on the BOH, the Commission has decided as part of this settlement not to pursue these § 17 issues.